

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:10CR88 RAS-DDB
	§	
EDWARD ANTHONY DEMERLE, JR.	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on March 12, 2015 to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Andy Williams.

On April 26, 2011, Defendant was sentenced by the Honorable Richard A. Schell, United States District Judge, to a sentence of 34 months imprisonment followed by a 3-year term of supervised release for the offense of Possession of Counterfeit Obligations or Securities. Defendant began his term of supervision on January 9, 2013.

On November 18, 2014, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the "Petition") (Dkt. 35). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any

controlled substances, except as prescribed by a physician; (3) Defendant shall participate in a program of testing and treatment for alcohol abuse, under the guidance and direction of the United States Probation Office, until such time as Defendant is released from the program by the probation officer; (4) Defendant shall pay restitution in the amount of \$780.00. Payment to begin immediately. Any amount that remains unpaid when Defendant's supervision commences is to be paid on a monthly basis at a rate of at least 10% of Defendant's gross income; and (5) Defendant shall be placed on home detention for a period of 120 days, to commence immediately. During this time, Defendant shall remain at his place of residence except for employment and other activities approved in advance by the U.S. Probation Officer. Defendant shall maintain a telephone at his place of residence without "call forwarding," "a modem," "Caller I.D.," "call waiting," or portable cordless telephones. At the direction of the probation officer, Defendant shall wear an electronic monitoring device and follow electronic monitoring procedures specified by the probation officer. Defendant is to pay the cost associated with his program of electronic monitoring.

The Petition alleges that Defendant committed the following violations: (1) On August 15, 2014, Defendant was arrested by the Plano Police Department and charged with Driving While Intoxicated Enhanced-3rd or more. He was subsequently released on August 17, 2014, after posting a \$5,000 bond; (2) Defendant failed to report for a drug test as instructed on April 8, 2013; May 18, 2013, September 8, 12, 16, 22, and 24, 2014; (3) Defendant failed to make a payment toward restitution in the months of March, May, June, September, October and December, 2013; and March, May, and August 2014; and (4) Defendant failed to report since the modification to his conditions was ordered on September 23, 2014, to begin his period of home confinement.

At the hearing, Defendant entered a plea of true to allegations one and two of the Petition. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the March 12, 2015 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twenty-two (22) months, with twelve (12) months supervised release, or until the balance of Defendant's fine is paid. The sentence shall run consecutively to any other sentence. The Court further recommends that Defendant's sentence be carried out in FCI Fort Worth, if appropriate.

SIGNED this 6th day of April, 2015.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE